

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

FREDERICK BARNES,)	No. ED101127
)	
Appellant,)	Appeal from the Circuit Court
)	of the City of St. Louis
vs.)	
)	Honorable Thomas J. Frawley
STATE OF MISSOURI,)	
)	
Respondent.)	FILED: February 10, 2015

Appellant Frederick Barnes (“Barnes”) appeals from the judgment of the motion court denying his Rule 29.15 motion for post-conviction relief without an evidentiary hearing. A jury convicted Barnes of one count of murder in the first degree, and the trial court sentenced Barnes to life in prison without the possibility of probation or parole. This Court affirmed Barnes’s conviction and sentence on direct appeal in State v. Barnes, 384 S.W.3d 298 (Mo. App. E.D. 2012). Barnes then timely filed a rule Rule 29.15 motion for post-conviction relief alleging, *inter alia*, that appellate counsel was ineffective for failing to raise on direct appeal that the trial court improperly applied Batson v. Kentucky, 476 U.S. 79 (1986), and its progeny when it ruled that two of Barnes’s peremptory strikes were racially motivated and returned the veniremembers to the venire panel. The motion court denied Barnes’s motion without an evidentiary hearing.

AFFIRMED.

Division III holds: Barnes’s Rule 29.15 motion failed to allege facts which would establish that he was prejudiced by the trial court’s application of Batson. Because Barnes failed to allege facts which, if true, would warrant relief, we affirm the judgment of the motion court.

Opinion by: Kurt S. Odenwald, P.J., Robert G. Dowd, Jr., J. and Gary M. Gaertner, Jr., J. Concur.

Attorney for Appellant: Robert Lundt

Attorney for Respondent: Chris Koster and Daniel McPherson

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